

No. 9/5/84-6Lab/6383.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s. the Sirsa Central Coop. Bank Ltd., Sirsa

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 157 of 82

between

SHRI SUSHIL KUMAR GUPTA, WORKMAN AND THE MANAGEMENT OF M/S. THE SIRSA CENTRAL COOP. BANK LTD, SIRSA

Present

Shri S.S. Gupta, A.R., for the workman.

Shri S.S. Goel, A.R., for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, to this Court, between Shri Sushil Kumar Gupta, workman and the management of M/s. The Sirsa Central Coop. Bank Ltd, Sirsa, for adjudication,—vide Labour Department Notification No. 112/HSR/57/82/34657, dated 27th July, 1982 :—

Whether the termination of service of Shri Sushil Kumar Gupta was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, usual notices were issued to the parties. The parties appeared. The workman alleged that he was employed as Steno-typist on permanent post against a vacant post on 11th April, 1980 but his services were terminated without any notice on 27th January, 1981. A detailed reply was filed by the management controverting the various pleas taken by the workman. I need not go into the same, because the parties settled the matter amicably, where under the workman was reinstated by the respondent. So no dispute award is given. The reference is answered and returned accordingly. There is no order as to cost.

Dated the 9th August, 1984.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

Endst No. 157-82/2900, dated 7th September, 1984.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.

No. 9/5/84-6Lab/6384.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Kapoor Electrodes (P) Ltd., Bahadurgarh:—

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 185 of 83

between

SHRI SHIV NATH, WORKMAN AND THE MANAGEMENT OF M/S. KAPOOR ELECTRODES (P) LTD., BAHADURGARH

Present

Workman in person.

Shri Ram Udai Mishra, Factory Manager of the management.

## AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute to this Court between Shri Shiv Nath, workman and the management of M/s. Kapoor Electrodes (P) Ltd., Bhadurgarh, for adjudication — vide Labour Department Notification No. 57703-8, dated 31st October, 1983 :—

Whether the termination of services of Shri Shiv Nath was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, usual notices were issued to the parties. The parties appeared. Before any claim statement could be filed by the workman, the parties arrived at a amicable settlement. The workman himself made a statement that his claim has been fully satisfied and that he does not claim the relief of reinstatement. So no dispute award is rendered. The reference is answered and returned accordingly. There is no order as to cost.

Dated, the 13th August, 1984.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.

Endost No. 185-83/2906, dated 7th September, 1984

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.

No. 9/5/84-6 Lab/6385.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of Managing Director of Haryana State Cooperative Supply and Marketing Federation, Ltd., Chandigarh:—

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 196 of 82

between

SHRI SUMAN KUMAR, WORKMAN AND THE MANAGEMENT OF MANAGING DIRECTOR, HARYANA STATE COOPERATIVE SUPPLY AND MARKETING FEDERATION LTD., CHANDIGARH.

Present.

None, for the workman.

Shri Jagbir Singh, A.R., for the management.

## AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, to this Court, between Shri Suman Kumar, workman, and the management of Managing Director, Haryana State Cooperative Supply and Marketing Federation Ltd., Chandigarh, for adjudication, — vide Labour Department Notification No. 1D/SPT/102/82/46139, dated 7th October, 1982 :—

Whether the termination of service of Shri Suman Kumar was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, usual notices were issued to the parties. The parties appeared. The workman alleged that he was employed as driver by the management on 12th July, 1977 and that his services were illegally terminated on 7th May, 1979 and that the order of termination is illegal and unlawful and against the principles of natural justice and in violation of the provisions of the Industrial Disputes Act, 1947.

3. A reply was filed by the respondent. I need not reiterate the pleas taken by the respondent, because the workman did not appear to prosecute the reference on 30th July, 1984, though Shri Jagbir Singh, Development Officer of the respondent was present. So this reference was ordered to be dismissed in default because the workman was not interested in the prosecution of the same. The reference is answered and returned accordingly. There is no order as to cost.

Dated, the 13th August, 1984.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

Endorsement No. 196-82/2907, dated 7th September, 1984.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

No. 9/5/84-6Lab/6386.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Rohtak in respect of the dispute between the workmen and the management of M/s New Tyre Sole Company, Bahadurgarh :—

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 74 of 1982

Between

SHRI RAM NATH, WORKMAN AND THE MANAGEMENT OF M/S NEW TYRE SOLE COMPANY, BAHADURGARH.

Present :—

Shri R.S. Yadav, A.R. for the workman,

Shri M.M. Kaushal, A. R. for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute to this Court between Shri Ram Nath, workman and the management of M/s New Tyre Sole Company, Bahadurgarh, for adjudication, —vide Labour Department Notification No. ID/RTK/36/82/20117, dated 29th April, 1982 :—

Whether the termination of service of Shri Ram Nath, was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, usual notices were issued to the parties. The parties appeared. The workman alleged that he was employed by the respondent as a helper on monthly basis of Rs. 280 about 1½ years ago but his services were terminated illegally on 16th October, 1981 in flagrant disregard of the provisions of the Industrial Disputes Act, 1947.

3. The detailed reply was filed by the respondent rebutting the various pleas taken by the petitioner/workman. On the pleadings of the parties, following issues were settled for decision on 29th October, 1982 :—

(1) Whether the termination of service of Shri Ram Nath was justified and in order ? If not, to what relief is he entitled ?

(2) Whether the workman remained gainfully employed ? If so, to what effect ?

4. The management examined MW-1 Shri Jaswinder Singh. Before the workman could produce any evidence, parties arrived at a settlement, where under the workman was paid a sum of Rs. 300 in full and final settlement of his claim. Statement of the Authorised Representative of the workman Shri R.S. Yadav was recorded in that behalf. So no dispute award is given. The reference is answered and returned accordingly. There is no order as to cost.

Dated, the 13th August, 1984.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

Endorsement No. "4-82/2908", dated 7th September, 1984.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

No. 9/5/84-6Lab./6387.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Mohta Electro Steel Ltd., Bhiwani :—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 62 of 1982

between

SHRI MAN SINGH, WORKMAN AND THE MANAGEMENT OF M/S. MOHTA ELECTRO STEEL LTD., BHIWANI

Present:—

Shri J. B. Sharma, A.R. for the workman.

Shri Sat Pal, A. R. for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute between the management of M/s Mohta Electro Steel Ltd., Bhiwani and its workman Shri Man Singh, to this Court, for adjudication, —vide Labour Department Notification No. ID/BHN/21/82/18596, dated 19th April, 1982.

Whether the dismissal of Shri Man Singh was justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, usual notices were issued to the parties. The parties appeared. The workman alleged that he was employed as Gardner General by the respondent about six years ago on a permanent basis and about a year ago a false case was foisted upon him and ultimately on 29th October, 1981 his services were terminated illegally. A detailed written statement was filed by the respondent rebutting the various allegations made by the workman.

3. On the pleadings of the parties, following issue was framed:—

(1) Whether the termination of service of Shri Man Singh was justified and in order? If not, to what relief is he entitled?

4. Later on an application filed by the management, following additional issue was laid down for decision on 9th February, 1983:—

(2) Whether the enquiry conducted by the management is fair and proper? If so, to what effect?

5. Before the parties could embark upon adducing their evidence a settlement was arrived at, whereunder, the workman was paid a sum of Rs. 3,000/- in full and final settlement of his claim. The receipt issued

by the workman in lieu of having received this amount has been placed on record. The learned Authorised Representative for the workman Shri J.B. Sharma has made a statement that the claim of the workman has been fully satisfied. So no dispute award is given. The reference is answered and returned accordingly. There is no order as to cost.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.

Dated, the 13th August, 1984.

Endorsement No. 62-82/2909. dated 7th September, 1984.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.

No. 9/5,84-6 Lab/6388. In pursuance of their provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Quality Discs Manufacturers Private Limited, Bahadurgarh (Rohtak)

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER- LABOUR COURT, ROHTAK.

Reference No. 20 of 81

between

SHRI NAFE SINGH WORKMAN AND THE MANAGEMENT OF M/S QUALITY DISCS  
MANUFACTURERS PRIVATE LTD., BAHADURGARH, ROHTAK

Present:—

Shri R. S. Dahiya, A. R. for the workman.  
Shri M. M. Kaushal A. R. for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute to this Court between Shri Nafe Singh, workman and management of M/s Quality Discs Manufacturers Private Limited, Bahadurgarh (Rohtak, for adjudication, —vide Labour Department Notification No. ID/RTK/166-80/3419 dated 21st January, 1981:—

Whether the termination of services of Shri Nafe Singh was justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, usual notices were issued to the parties. The parties appeared. The workman alleged that he was employed as a Pressman by the respondent on 1st May, 1980 on monthly basis of Rs. 265 and that on 22nd August, 1980 the present workman and his co-workman were called by the manager of the respondent to sign the settlement on blank documents, which they refused and as such, on 23rd August, 1980 the workman and his colleagues were not allowed to enter the factory premises and in this way services of the workman were unlawfully terminated.

3. In the detailed reply filed by the management, the pleas taken by the workman were rebutted, I need not detail the pleas taken by the respondent, because later on, the parties arrived at a settlement and on the pleadings of the parties, following issues were taken for decision on 15th October, 1981:—

- (1) Whether the respondent is not the employer of the workman? If so, to what effect?
- (2) Whether no specific demand was raised against the respondent? If so, to what effect?
- (3) Whether the applicant remained gainfully employed?
- (4) Whether the termination of services of Shri Nafe Singh was justified and in order? If not, to what relief is he entitled?

4. Before the parties could adduce any evidence in support of their respective contention, a settlement was arrived at. The learned Authorised Representative of the workman Shri R.S. Dahiya, made a statement that

the workman has settled his claim with the respondent-management, though he did not disclose the contents of the settlement arrived at between the parties. So no dispute award is given. The reference is answered and returned accordingly. There is no order as to cost.

Dated, the 13th August, 1984.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak

Endorsement No. 20-81/2910, dated 7th September, 1984.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.

No. 9/5,84-6Lab/6389.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, in respect of the dispute between the workmen and the management of M/s Haryana Roadways, Rohtak :—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 165 of 82

between

SHRI JAI PARKASH, WORKMAN AND THE MANAGEMENT OF THE HARYANA ROADWAYS, ROHTAK

Present :—

Shri M. C. Bhardwaj Advocate for the workman.

Shri S. C. Singla, L.A. for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute to this Court, between Shri Jai Parkash, workman and the management of the Haryana Roadways, Rohtak, for adjudication,—vide Labour Department Notification No. ID/RTK/69/82/39753, dated 25th August, 1982 :—

Whether the termination of service of Shri Jai Parkash was justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, usual notices were issued to the parties. The parties appeared. The workman alleged that he was appointed as a Conductor in the month of January, 1981, but on 19th May, 1982 his services were terminated in flagrant disregard of principles of natural justice and the provisions of the Industrial Disputes Act, 1947, without holding an enquiry, or serving any charge-sheet upon him.

3. In the reply filed by the respondent, it is controverted that the workman was appointed as a Conductor in the month of January, 1981 and that the provisions of section 25(F) of the Industrial Disputes Act, 1947, are not attracted in this case, because the workman has not completed one year of continuous service.

4. The only issue framed was as per terms of the reference, which has been detailed above and as such, I need not suffer repetition.

5. The management examined MW-1 Shri Pawan Kumar, Clerk, Haryana Roadways, Rohtak Depot. The workman appeared as his own witness WW-1.

6. Though there is no specific issue, the entire controversy between the parties centered around the fact as to whether the petitioner is a workman or not. The learned counsel for the petitioner-workman Shri M. C. Bhardwaj rightly contended that the workman satisfies the provisions of section 25(b) of the Industrial Disputes Act, 1947 because he has worked for more than 240 days in the last 12 months from the date his services were terminated. Calculation of days was made in the presence of the learned counsel for the parties and from the said calculation, it was found that prior to 19th March, 1982, the date on which the services of the workman were terminated, he had worked for 278 days upto 1st April, 1981.

In that behalf the learned counsel for the workman cited 1981(1)LLJ, 386 Surinder Kumar Verma and others versus Central Government Industrial Tribunal, New Delhi. In this authority their Lordships of the Hon'ble Supreme Court of India in para number 9 observed as under :-

These changes brought about by Act 36 of 1964 appear to be clearly designed to provide that a workman who has actually worked under the employer for not less than 240 days during a period of twelve months shall be deemed to have been in continuous service for a period of one year whether or not he has in fact been in such continuous service for a period of one year. It is enough that he has worked for 240 days in a period of 12 months; it is not necessary that he should have been in the service of the employer for one whole year. We hold that Usha Kumari and Madhubala are in the same position as the other appellants.

7. So the plea of the learned counsel for the respondent that the workman has not put in uninterrupted service of 240 days prior to his termination in the last 12 preceding months, is absolutely untenable in view of the law laid down in the authority cited above.

8. From the perusal of the documents MW-1/1 to MW-1/6, it is apparent that the petitioner was initially employed on *ad hoc* basis on 1st April, 1981 and remained in the service of the respondent upto 11th June, 1981. He was re-employed on 9th July, 1981 and worked upto 31st August, 1981. He was again employed on 20th October, 1981 and worked upto 19th March, 1982. So the working days of the workman in the last preceding 12 months from the date of termination are 278 days and as such, he has fully satisfied the provisions of section 2(B) and section 25(b) of the Industrial Disputes Act 1947.

9. There is denying the fact before terminating the services of the workman, no charge-sheet or notice was issued to him, nor was he paid any retrenchment compensation as envisaged under section 25(F) of the Industrial Disputes Act, 1947. So, I have no difficulty in holding that the termination of services of the workman was illegal and unlawful and as such, he is ordered to be reinstated with full back wages and continuity of service. So this reference is answered and returned accordingly. There is no order as to cost.

Dated, the 14th August, 1984.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

Enst. No. 165-82/2911, dated 7th September, 1984.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

No. 9/5/84-Lab/6390.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of Executive Engineer, Haryana Urban Development Authority Division No. 2, Hissar:—

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 34 of 82

between

SHRI ISHWAR DASS, WORKMAN AND THE MANAGEMENT OF EXECUTIVE ENGINEER  
HARYANA URBAN DEVELOPMENT AUTHORITY DIVISION NO. 2, HISSAR

Present :—

Shri T.C. Gupta A.R. for the workman.

Shri R.C. Sethi, A.D.A. for the management.

AWARD

1. An Industrial Dispute, formulated below, having arisen between the workman Shri Ishwar Dass and the management of Executive Engineer, Haryana Urban Development Authority, Division No. 2, Hissar, in

exercise of the powers conferred by clause (c) of Sub-section (1) of section 10 of the Industrial Disputes Act, 1947 referred the same to this Court for adjudication,—vide Labour Department Notification No. 1D/HSR/118/81/3763, dated 21st January, 1982 :—

Whether the termination of service of Shri Ishwar Dass was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, usual notices were issued to the parties. The parties appeared. The workman alleged that he was employed on permanent basis in the year 1977 as a Sewerman by the respondent and worked as such with him upto 30th April, 1981, after which date, his services were terminated without any notice or charge-sheet and without adhering to the provisions of section 25(F) of the Industrial Disputes Act, 1947.

3. In the detailed reply filed by the respondent, it was alleged that the workman was employed as Sewerman on work charge basis on 25th February, 1977 by the Executive Engineer, Public Health Division No. 1, Hissar on 21st March, 1977. Later on the workman opted to join the respondent as per the terms and conditions made out to him on 1st October, 1977. It is further alleged that as per the terms of the employment of the workman, his services were liable to be terminated at any time by giving him 10 days notice and accordingly his services were terminated on 24th January, 1980 and was given fresh appointment on 1st April, 1980 on the written request of the workman that he will not claim any benefit of previous service. It is further alleged that the employment of the workman was monthly basis upto 31st March, 1981 and the workman was erratic in reporting for his duties in the month of April, May, 1981 and so there is no question of respondent terminating the services of the workman. Other pleas taken are that there is an immunity for adjudication to the order passed by the Executive Engineer of the respondent as provided under section 50 of the Haryana Urban Development Authority Act, 1977.

4. On the pleadings of the parties following issues were settled for decision on 8th September, 1982 :—

1. Whether the termination of services of Shri Ishwar Dass was justified and in order ? If not, to what relief is he entitled ?
2. Whether the workman remained gainfully employed ? If so, to what effect ?
5. My findings on the issues framed are as below :—

#### Issue No. 1

6. To prove this issue respondent examined Shri Harish Singh Senior Auditor of the respondent, who made a statement completely in consonance with the pleas taken by the respondent in its reply, so I would avoid repetition. On the other hand the workman appeared as his own witness as WW-1 and stated that he was employed in February, 1977 on permanent basis as a Sewerman and his monthly wages were Rs. 400 and that his Services were terminated without any notice or charge-sheet

7. Ex.M-1 is the copy of the letter,—vide which the post of Sewerman was offered to the workman by the respondent. Ex. M-2 is the copy of the letter of the workman,—vide which he agreed to work with the management on the terms and conditions as with his previous employer. Ex MW-4 is the copy of the order,—vide which the services of the workman were terminated by the respondent on 24th January, 1980 and thereafter the workman was re-employed on monthly basis.

8. The learned counsel Shri R.S. Sethi, Law Officer of the management has drawn my attention to Chapter I rule 1.129 of the Public Works Department Code, whereunder members of the work charge establishment could be discharged at 10 days notice except in case of serious misconduct or gross inefficiency. He referred to this provision of the Code to succour his contention that since the workman was employed on work charge basis, so his service could be terminated by the respondent after giving 10 days notice and as such the petitioner has not acquired the status of "Workman" as contemplated under section 2(S) of the Industrial Disputes Act, 1947. In my opinion, the learned counsel for the respondent was on fragile footing in so arguing. The provisions of the Industrial Disputes Act, 1947 has got overriding effect upon any other provision of law so far as per the term "workman" is concerned. Since the petitioner worked with the respondent for more than 240 days, he acquired the status of the workman and as such his termination can not be made by the respondent without complying with the provisions of section 25(F) of the Industrial Disputes Act, 1947. This is not a case of the respondent that any notice was given to the workman or any retrenchment compensation was paid to him prior to the termination of his service. So the order of termination of the workman was illegal and unlawful and not sustainable in the eye of law. So this issue does against the respondent management.

#### Issue No. 2

9. On this issue strong reliance was placed on behalf of the respondent upon Ex.M-10, a photostat copy of the letter issued by the Sub-Divisional Engineer, PWD Hissar evidencing that the workman is employed as



Sewer/helper in the said department from the month of November, 1981 in the grade of Rs. 90-3-120 + Rs. 50 as special pay. So he contended that there is no question of awarding any back wages to the workman. The basic authority on this point is a full bench authority of the Punjab and Haryana High Court reported in 1980 (2) LLJ Page 294 Hari palace Ambala City Versus Labour Court Rohtak and another. In this authority their Lordships copiously cited from the Supreme Court Authority reported in AIR 1979 S.C. 75 Hindustan Tin Works Private Ltd. Vs Employees of Hindustan Tin Works Private Ltd.. The extract quoted in the said authority can be extracted here with advantage :—

“Ordinarily, therefore, a workman whose service has been illegally terminated would be entitled to full back wages except to the extent he was gainfully employed during the enforced idleness. That is the normal rule. Any other view would be a premium on the unwarranted litigative activity of the employer.”

And again :

“Full back wages would be the normal rule and the party objecting to it must establish the circumstances necessitating departure.”

10. Their Lordships have laid down that full back wages would be the normal rule and the party objecting to the same has to prove the circumstances necessitating a departure. In the present case the respondent has placed on record that the workman is in the employment of a Public Works Department since November 1981. His services were terminated on 30th April, 1981. So he remained unemployed only for the months of May, 1981 to October, 1981. So, I find that the workman remained gainfully employed after November, 1981 and as such he shall not be entitled to back wages after that period.

11. Interview of my findings on the aforesaid issues termination of services of the workman is held to be illegal and unlawful, against the principles of natural justice and in complete disregard of the provision of the Industrial Disputes Act, 1947 and as such he is ordered to be reinstated with continuity of back service and he shall be entitled to back wages for the period May, 1981 to October, 1981. The reference is answered and returned accordingly. There is no order as to cost.

Dated the 14th August, 1984.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

Endorsement No. 34-82/2912, dated the 7th September, 1984.

Forwarded (four copies) to the Secretary to Government Haryana Labour and Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

No. 9/5/84-6Lab./6392.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of dispute between the workmen and the management of M/S. (i) S.D.O. Canal lining Mechanical Sub-Division No. 8 Sirsa (ii) The Executive Engineer, Canal Lining Mech. Division, III Sirsa. (iii) Chief Engineer, Haryana Irrigation, Chandigarh.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 203 of 80

between

SHRI TILK RAJ, WORKMAN, AND THE MANAGEMENT OF M/S. (i) S.D.O. CANAL LINING MECHANICAL SUB-DIVISION NO. 8, SIRSA. (ii) THE EXECUTIVE ENGINEER, CANAL LINING MECH. DIVISION, III, SIRSA. (iii) CHIEF ENGINEER, HARYANA IRRIGATION, CHANDIGARH.

Present :—Shri D.P. Pathak A.R. for the workman.

Shri P.N. Khetrpal Law Officer of the management.

AWARD

1.—An Industrial Dispute reproduced below, having arisen between the workman and the management of M/s. (i) S.D.O., Canal Lining Mechanical Sub-Division No. 8, Sirsa. (ii) The Executive

Engineer, Canal Lining Mech. Division, III, Sirsa. (iii) Chief Engineer, Haryana Irrigation, Chandigarh, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the same to this Court for adjudication, —vide Labour Department Notification No. ID/HSR/70-80/50518, dated 22nd September, 1980. —

Whether the termination of services of Shri. Tilak Raj was justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, usual notices were issued to the parties. The parties appeared. The workman alleged that he started working with the respondent as a Welder on transfer from Karnal w.e.f. 25th October, 1969 and his monthly salary was Rs. 588-50 and services were illegally terminated on 10th August, 1980—vide letter No. 1079-80-6, dated 28th May, 1980 and that before the termination of service, no compensation was paid to him as envisaged under section 25(F) of the Industrial Disputes Act, 1947. Other allegations have been made in the claim statement which are not germane for the decision of the controversy in hand.

3. In the reply filed by the respondent, it is admitted that the workman was employed with the respondent and was transferred from Karnal to Sirsa and that his services were terminated as alleged, because of want of work. Another plea taken is that the respondent/management is not an "Industry" as defined under section 2(J) of the Industrial Disputes Act, 1947 (hereinafter referred as the Act). In the replication filed by the workman, he has controverted the various pleas taken by the respondent/management.

4. On the pleadings of the parties, following issues were settled for decision on 20th August, 1981 :—

1. Whether the applicant is a workman under section 2(s) of the Industrial Disputes Act, 1947?
2. Whether the Irrigation Department is not an Industry?
3. Whether the termination of service of Shri Tilak Raj was justified and in order? If not, to what relief is he entitled?

5. The management examined MW-1 Shri K.G. Grover, Junior Engineer, Canal Lining, Sirsa and the workman appeared as his own witness as WW-1:

6. My findings on the issues framed are as below :—

#### Issue No. 1

7. The learned counsel for the respondent Shri Khetrapal frankly conceded that the petitioner is a workman as defined in section 2(s) of the Industrial Disputes Act, 1947, because he was not working in any supervisory capacity to bring him beyond the purview of the term "workman" as defined in the said section. So, there is no difficulty in holding that the petitioner is a "workman" and this issue goes in favour of the petitioner.

#### Issue No. 2

8. On this issue, the learned counsel for the respondent cited a full bench authority of the Hon'ble High Court of Punjab and Haryana rendered in Civil Writ Petition No. 3746 of 1984 titled Om Parkash vs. management of M/s. Executive Engineer, SYL Division No. 7 Canal Colony Kurukshetra. In this authority their Lordships went in to the ratio of the law laid down in Civil Writ Petition No. 1491 of 1983 decided on 12th May, 1983 and held that the law laid down in the said authority was no more good law and fully endorsed the law laid down in the full bench authority rendered in 1983(I) SLR 710 in which it was held that the Irrigation department cannot be held to be an "Industry" as envisaged under section 2(J) of the said Act. The decision of the full bench authority has got a binding precedent upon this Court and as such the contrary contentions raised on behalf of the workman cannot be accepted. So, I find that the respondent is not an "Industry" as defined in section 2(J) of the said Act and as such this issue goes against the workman.

#### Issue No. 3

9. I need not appraise the evidence adduced by the parties for the decision of this issue, because the respondent in the reply filed admitted that the services of the petitioner were terminated for want of work, though he also admitted that the petitioner is in employment of the respondent prior to the year, 1969. It is also admitted that no allegation of inefficiency or mis-conduct against the petitioner. It is also admitted that the petitioner was not given any notice or retrenchment compensation as contemplated under section 25(F) of the said Act. Since the petitioner was in the employment of the respondent for more than one year, he acquired the status of workman as envisaged under section 2(s) of the Industrial Disputes Act, 1947. So the termination of services of the workman was illegal and unjustified without complying provisions of section 25(F) of the said Act. So this issue goes in favour of the workman.

10. In view of my decision on issue No. 2 that the respondent is not an "Industry" as contemplated under section 2(J) of the Industrial Disputes Act, this reference is bad in law. So the same is answered and returned accordingly, but in view of the peculiar circumstances of the case, the parties are left to bear their own cost of the reference.

Dated the 14th August, 1984.

B.P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

Endst. No. 203-80/2913, Dated the 7th September, 1984.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B.P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

No. 9/5/84-6Lab./6392.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of the Executive Engineer, Operation Division, H.S.E.B., Jhajjar :—

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 33 of 80

between

SHRI ROHTAS SINGH, WORKMAN AND THE MANAGEMENT OF THE EXECUTIVE ENGINEER, OPERATION DIVISION, HARYANA STATE ELECTRICITY BOARD, JHAJJAR.

Present :—Shri S.S. Gupta A.R. for the workman.  
Shri N.P. Singh, Law Officer for the management.  
AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Rohtas Singh and the management of Executive Engineer, Operation Division, Haryana State Electricity Board, Jhajjar, for adjudication,—vide Labour Department Notification No. 1D/SPT/139-79/8810, dated 19th February, 1980 :—

Whether the termination of service of Shri Rohtas Singh was justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, usual notices were issued to the parties. The parties appeared. Since the parties have arrived at a settlement, so I need not detail the case of the workman or the pleas taken by the respondent. As per the terms of the settlement the workman has been reinstated by the respondent with continuity of service. As regards back wages, the respondent has agreed to grant him leave as due. The reference is answered and returned accordingly. There is no order as to cost.

Dated the 14th August, 1984.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

Endst. No. 33-80/2914, dated 7th September, 1984.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B.P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.